

1
2
3
4 UNITED STATES DISTRICT COURT
5 DISTRICT OF NEVADA

6 * * *

7 LUKE SPREADBOROUGH,

Case No. 2:18-cv-01974-RFB-CWH

8 Petitioner,

ORDER

9 v.

10 J. DZURENDA, et al.,

11 Respondents.

12 This *pro se* habeas matter comes before the Court for initial review under Rule 4 of the
13 Rules Governing Section 2254 Cases.

14 Petitioner has not properly commenced this action by either paying the filing fee or
15 submitting a complete pauper application. Accordingly, petitioner either must pay the \$5.00 filing
16 fee or file a properly completed pauper application within sixty (60) days of entry of this order.

17 In addition, Exhibit C attached to the petition contains a confidential personal identifier,
18 specifically petitioner's birth date, which should be redacted from the document. (*See* ECF No. 1-
19 1 at 40 (Ex. C)). Exhibit C is also a psychological evaluation of petitioner, which petitioner may
20 or may not wish to have available for public view. The Clerk of Court has, in an abundance of
21 caution, restricted access to the petition and its exhibits in order to protect the confidential
22 information in Exhibit C. However, there is no compelling reason to seal the entire petition. *See*
23 *Kamakana v. City and County of Honolulu*, 447 F.3d 1172 (9th Cir. 2006). Accordingly, petitioner
24 must, within sixty days of the date of this order, file a first amended petition that redacts his birth
25 date from Exhibit C. Should petitioner wish to keep the psychological evaluation under seal in its
26 entirety, he should not file it with the other exhibits to the petition but should instead attach it to a
27 separate motion to seal.¹

28 ¹ The Court does not implicitly conclude by way of this order that the petition is otherwise free of deficiencies.

1 IT IS THEREFORE ORDERED that petitioner shall have sixty (60) days within which to
2 either pay the \$5.00 filing fee or file a new and properly completed application to proceed *in forma*
3 *pauperis* along with all required attachments.

4 IT IS FURTHER ORDERED that the Clerk of Court shall file the petition under seal (ECF
5 No. 1-1), but petitioner must mail to the clerk for filing an amended petition in accordance with
6 this order within sixty days of the date of this order. Petitioner shall clearly title the amended
7 petition as an amended petition by placing the word "AMENDED" immediately above "Petition
8 for a Writ of Habeas Corpus" on page 1 in the caption, and he must place the docket number, 2:18-
9 cv-01974-RFB-CWH, in the designated space above the word "AMENDED." Under Local Rule
10 LR 15-1, the amended petition must be complete in itself without reference to previously filed
11 papers. Thus, the claims and allegations that are stated in the amended petition will be the only
12 matters remaining before the court. Any claims or allegations that are left out of the amended
13 petition or that are not re-alleged will not be considered.

14 The Clerk of Court shall SEND petitioner two copies of an *in forma pauperis* application
15 form for incarcerated persons along with one copy of the instructions for same. The Clerk further
16 shall send petitioner two copies of a noncapital § 2254 form along with one copy each of the
17 instructions for the form and petitioner's original petition.

18 If petitioner fails to timely comply with this order by: (1) either paying the filing fee or
19 submitting a properly completed new pauper application with all required attachments within sixty
20 (60) days; and (2) failing to file a signed and verified amended petition, this action will be
21 dismissed without further advanced notice.

22 IT IS SO ORDERED.

23 DATED this 14th day of February, 2019.

24 

25 RICHARD F. BOULWARE, II
26 UNITED STATES DISTRICT JUDGE
27
28